

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EARNEST C. WOODS, II,) No. C 11-4730 JSW (PR)
Plaintiff,)
v.) **SECOND ORDER OF SERVICE**
ROBERT AYERS, et al.,) (Docket No. 13)
Defendants.)

Plaintiff, a California prisoner proceeding pro se, filed this rights action pursuant to 42 U.S.C. § 1983. The Court ordered the amended complaint served upon Defendants Robert Ayers, Captain Cahayla, Lieutenant Frates, Sergeant Puu, Lieutenant Lee, Teresa Schwartz, Eric Arnold and Captain Vern Curry at San Quentin State Prison.

The Court assumed that they were located at San Quentin because that appears from Plaintiff's allegations to be where he was located at the time of the events alleged in the amended complaint. However, the Court ordered that if they were located elsewhere Plaintiff had to provide their correct location, and he was cautioned that if he did not the claims against any Defendant who could not be served would be dismissed pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Plaintiff has filed a "motion" in which he provides a different location for some of the Defendants. Consequently, the Clerk of the Court shall issue summons and the United States Marshal shall serve, without prepayment of fees, a copy of the amended complaint and all attachments thereto, and a copy of the order of service upon Defendants **Teresa Schwartz, Eric Arnold, and Captain Vern Curry** at the **California Department of Corrections and Rehabilitation in Sacramento, California.**

1 Plaintiff makes a number of allegations in his motions about Defendants who
2 were dismissed because the amended complaint did not include any allegations against
3 them. If Plaintiff wants to make new allegations against the dismissed Defendants and
4 pursue claims against them in this case, he must file a motion for leave to file a second
5 amended complaint with the proposed second amended complaint attached. In the
6 second amended complaint, Plaintiff may include new allegations against the dismissed
7 Defendants provided that those allegations state a cognizable claim for relief against
8 them. Plaintiff is cautioned that if he chooses to file a second amended complaint, he
9 must include in the second amended complaint the caption and civil case number used in
10 this order and the words "SECOND AMENDED COMPLAINT" and the case number
11 for this case (No. C 11-4730 JSW (PR)) on the first page. Further, as Plaintiff has been
12 told previously, an amended complaint completely replaces the prior complaint. *see*
13 *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Consequently, Plaintiff must
14 include in his second amended complaint all of the claims he wishes to raise, including
15 those found cognizable from the first amended complaint; Plaintiff may not incorporate
16 material from the original or amended complaints by reference.

17 This order terminates docket number 13.

18 IT IS SO ORDERED.

19 DATED: June 19, 2012



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21 JEFFREY S. WHITE
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

EARNEST CASSELL WOODS II,

Case Number: CV11-04730 JSW

Plaintiff,

CERTIFICATE OF SERVICE

V.

ROBERT AYERS et al,

Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on June 19, 2012, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Earnest C. Woods D 58091
San Quentin Prison
San Quentin, CA 94974

Dated: June 19, 2012

Jennifer Ottolini
Richard W. Wieking, Clerk
By: Jennifer Ottolini, Deputy Clerk

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